

AMENDED IN SENATE MAY 19, 2016

AMENDED IN ASSEMBLY JANUARY 25, 2016

AMENDED IN ASSEMBLY JUNE 3, 2015

AMENDED IN ASSEMBLY JUNE 2, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 67

Introduced by Assembly Member Gonzalez
(Coauthors: Assembly Members Calderon, Chu, and McCarty)
(Coauthor: Senator Allen)

December 17, 2014

An act to add Section 511.5 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 67, as amended, Gonzalez. Double Pay on the Holiday Act of 2016.

Existing law provides that 8 hours of labor constitutes a day's work. Under existing law, any work in excess of 8 hours in one workday and any work in excess of 40 hours in any one workweek, and the first 8 hours worked on the 7th day of work in any one workweek, is required to be compensated at the rate of no less than 1 ½ times the regular rate of pay for an employee. Existing law also provides that hours worked in excess of 12 hours in one day as well as hours worked in excess of 8 hours on any 7th day of work are to be compensated at the rate of no less than twice the regular rate of pay of an employee. A violation of these overtime wage provisions constitutes a crime.

This bill would enact the Double Pay on the Holiday Act of 2016 that 2016, which would require an employer to pay at least 2 times the regular rate of pay to ~~an employee~~ employees at retail and grocery store establishments, as defined, except employees in specified categories, for work on a family holiday, as defined. *The bill would exempt restaurants, except for restaurants located within retail or grocery store establishments, from the act.*

Because this bill would expand the definition of a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 511.5 is added to the Labor Code, to
2 read:
3 511.5. (a) This section shall be known, and may be cited, as
4 the Double Pay on the Holiday Act of 2016.
5 (b) Any work performed at a retail store establishment or a
6 grocery store establishment on a family holiday shall be
7 compensated by the employer at no less than twice the employee's
8 regular rate of pay.
9 (c) The provisions of this section are in addition to and
10 independent of any other rights, remedies, or procedures available
11 under any other law to an aggrieved employee.
12 (d) As used in this section:
13 (1) "Employee" does not include the following:
14 (A) An employee covered by a valid collective bargaining
15 agreement if the agreement expressly provides for the wages, hours
16 of work, and working conditions of employees, and expressly
17 provides for holiday premium pay for those employees, premium
18 wage rates for all overtime hours worked, and a regular hourly
19 rate of pay of not less than 30 percent more than the state minimum
20 wage.

1 (B) An employee who is exempt from the payment of an
2 overtime rate of compensation for executive, administrative, and
3 professional employees pursuant to wage orders issued by the
4 Industrial Welfare Commission described in Section 515.

5 (C) An employee who is employed by an employer who employs
6 500 or fewer employees.

7 (2) “Employer” means any person employing another under
8 any arrangement or contract of hire and includes the state, political
9 subdivisions of the state, and municipalities.

10 (3) “Retail store establishment” means a physical store within
11 the state with more than 50 percent of its revenue generated from
12 merchandise subject to the state’s sales and use ~~tax~~, *taxes*,
13 including, but not limited to, electronics, appliances, clothing,
14 furniture, sporting goods, health and personal products, or a limited
15 line of food products for onsite consumption. A “retail store
16 establishment” does not include a store located in a hotel,
17 amusement park, or movie ~~theater~~, *theater, or a new motor vehicle*
18 *dealer, as defined in Section 426 of the Vehicle Code.*

19 (4) “Grocery store establishment” means a physical store within
20 the state that sells primarily household foodstuffs for offsite
21 consumption, including, but not limited to, the sale of fresh
22 produce, meats, poultry, fish, deli products, dairy products, canned
23 foods, dry foods, beverages, and baked or prepared foods. Other
24 household supplies or products are secondary to the primary
25 purpose of food sales. *A “grocery store establishment” does not*
26 *include a store that occupies 5,000 square feet or less of floor*
27 *space and that sells transportation fuels in conjunction with, and*
28 *at the same physical location as, household foodstuffs for offsite*
29 *consumption.*

30 (5) “Family holiday” means the fourth Thursday of November
31 of each year.

32 *(e) This section shall not apply to restaurants, except for*
33 *restaurants that are located within a retail store establishment or*
34 *a grocery store establishment.*

35 SEC. 2. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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